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Notice of Allowability

Application No.

10/051,254

Examiner

Andrew C. Lee

Applicant(s)

SHOEMAKE, MATTHEW B.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/23/2007.
2. ☒ The allowed claim(s) is/are 1-8, 12-15, 19-23 renumbered 1 - 17, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Allowable Subject Matter

1. Claims 1 –8, 12 – 15, 19 – 23 are allowed.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance:

The prior art of record, in single or in combination, does not disclose the limitations of

“providing an ordered list of a plurality of transmit parameter pairs that each include information indicative of a data rate and information indicative of a power level, wherein ordering the list comprising: ordering the data rate for a first group of the transmit parameter pairs from lowest to highest, the data rate for each of the transmit parameter pairs of the first group paired with a common maximum power level; ordering the power level for a second group of the transmit parameter pairs from highest to lowest, the power level for each of the transmit parameter pairs of the second group paired with a common maximum data rate” as disclosed in claim 1;

“a storage portion for storing an ordered list of a plurality of transmit parameter pairs that each include information indicative of a data rate and information indicative of a power level, said storage portion having an output for outputting a selected one of the transmit parameter pairs, wherein the ordered list orders the data rate for a first group of the transmit parameter pairs from lowest to highest, the data rate for each of the

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transmit parameter pairs of the first group paired with a common maximum power level and wherein the ordered list further orders the power level for a second group of the transmit parameter pairs from highest to lowest, the power level for each of the transmit parameter pairs of the second group paired with a common maximum data rate" as disclosed in claim 15;

"said transmitter including an apparatus for jointly controlling the data rate and power level at which the data is transmitted on the communication channel, including a storage portion for storing an ordered list of a plurality of transmit parameter pairs that each include information indicative of a data rate and information indicative of a power level, said storage portion having an output for outputting a selected one of the transmit parameter pairs, a communication interface coupled to said storage portion output for transmitting at the data rate and power level indicated by the selected transmit parameter pair, and a controller coupled to said storage portion for sequentially selecting different ones of the transmit parameter pairs to be the selected transmit parameter pair that is output from said storage portion, said controller including an input for receiving information indicative of a communication quality condition associated with the communication channel, and said controller operable for determining which of the transmit parameter pairs will be the next selected transmit parameter pair based on the communication quality condition and the currently selected transmit parameter pair, wherein the ordered list orders the data rate for a first group of the transmit parameter pairs from lowest to highest, the data rate for each of the transmit parameter pairs of the

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first group paired with a common maximum power level and wherein the ordered list further orders the power level for a second group of the transmit parameter pairs from highest to lowest, the power level for each of the transmit parameter pairs of the second group paired with a common maximum data rate" as disclosed in claim 23.

3. Additionally, all of the further limitations in claims 2 – 8, 12 – 14, 19 – 22 are allowable since the claims are dependent upon the independent claims.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Lee whose telephone number is (571) 272-3131. The examiner can normally be reached on Monday through Friday from 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew C. Lee/::<5/31/2007>


6/7/07
WING CHAN
SUPERVISORY PATENT EXAMINER